

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

FRANK HEARRING,

Case No. 3:22-cv-00377-LRH-CSD

Petitioner,

v.

**ORDER**WILLIAM REUBART, *et al.*,

Respondents.

Petitioner Frank Herring has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. (ECF No. 1-1 (“Petition”).) During an initial review under the Rules Governing Section 2254 Cases, on September 19, 2022, this Court found that jurisdiction was lacking because (1) the Petition challenges the same judgment of conviction as a petition previously filed in case number 2:16-cv-01639-GMN-GWF, (2) the petition filed in case number 2:16-cv-01639-GMN-GWF was decided on the merits, and (3) Herring had not been given permission by the Ninth Circuit Court of Appeals to file a successive petition. (ECF No. 5 at 3–4.) As such, this Court ordered Herring to show cause why this action should not be dismissed for a lack of jurisdiction based on the Petition being an unauthorized second or successive petition. (*Id.* at 4.) Herring responded to this Court’s order to show cause. (ECF No. 8.) However, Herring did not address this Court’s lack of jurisdiction or the Petition being second or successive; rather, Herring argued the merits of his Petition. (*See id.*) Accordingly, based on this Court’s September 19, 2022, order (ECF No. 5) and Herring’s failure to address this Court’s jurisdiction in his response to the order to show cause, this Court finds that the Petition should be dismissed.

IT IS THEREFORE ORDERED that Petitioner Frank Herring’s petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (ECF No. 1-1) is **DISMISSED** as an unauthorized second or successive petition. A certificate of appealability is denied as reasonable jurists would not find the dismissal of the petition to be debatable or wrong for the reasons discussed herein.

IT IS FURTHER ORDERED that the Clerk of Court is instructed to add Nevada Attorney General Aaron D. Ford as counsel for Respondents. No response is required from Respondents other than to respond to any orders of a reviewing court.

1 IT IS FURTHER ORDERED that pursuant to Rule 4 of the Rules Governing Section 2254  
2 Cases, the Clerk of Court will file the petition for a writ of habeas corpus pursuant to 28 U.S.C. §  
3 2254 (ECF No. 1-1) and informally serve the Nevada Attorney General with the petition (1-1), this  
4 order, and all other filings in this matter by sending a notice of electronic filing to the Nevada  
5 Attorney General's office.

6 IT IS FURTHER ORDERED that Petitioner's motion to extend time to respond to the  
7 order to show cause (ECF No. 6) is granted *nunc pro tunc*.

8 IT IS FURTHER ORDERED that the Clerk of Court is instructed to enter final judgment  
9 accordingly and close this case.

10 DATED this 2nd day of November 2022.

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13 LARRY R. HICKS  
14 UNITED STATES DISTRICT JUDGE  
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